



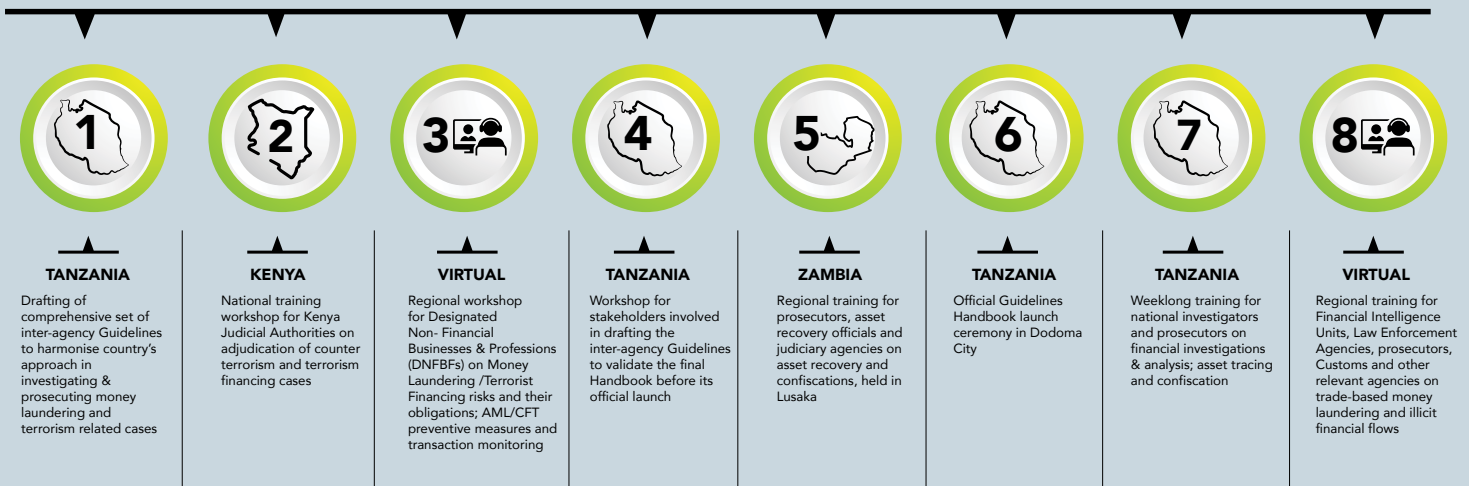
## AML - CFT ESCAY, ISSUE 2

Targeting Transnational Organised Crime and Terrorist Groups' Illicit Financial Flows in East, Southern, Central Africa & Yemen

### APRIL – JULY 2023 AT A GLANCE

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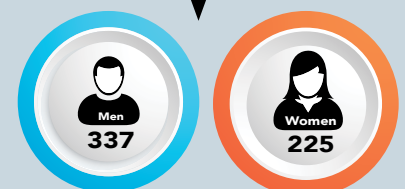
NUMBER  
OF PROJECT  
ACTIVITIES



#### Institutions that participated in the project activities:

Anti-corruption Agencies, Asset Recovery Agencies, Banks, Central Banks, Customs Agencies, DNFPB, DNFPB Supervision bodies, Financial Supervision bodies, FIUs, Immigration Services, Judiciary, Law Enforcement Agencies, Prosecution, Revenue Collection agencies

#### NUMBER OF PARTICIPANTS TRAINED





**Frédéric BAYARD**  
AML-CFT ESCAY Project  
Team Leader



**The entire team  
of the AML-CFT  
ESCA Y Project is  
happy to present  
to you this second  
edition of  
our newsletter**



**T**he entire team of the AML- CFT ESCAY Project is happy to present the second edition of our newsletter to you. In this issue, we will give you an overview of the activities we implemented between April and July. This was a busy period for us. We organized more than eight training workshops in over five cities across Africa. We are very grateful to our partners, without whom we would not have been able to achieve even half of what we achieved.

During this period, we paid special attention to Tanzania, which was listed on the FATF's grey list in October 2022. But since being grey- listed, Tanzania has been working around the clock to exit the list, by addressing the deficiencies in her anti-money laundering and counter-terrorism financing framework, which were identified during the mutual evaluation.

As a project, we are honoured that Tanzania approached us with a request for assistance to address these deficiencies. As outlined in more detail elsewhere in this newsletter, we collaborated with the country's National Prosecution Services, NPS, to develop a comprehensive multi-stakeholder set of counter-terrorism guidelines. This effort brought together over 17 different public agencies who are involved in the investigations or prosecution of money laundering, terrorism and terrorism related cases. The developed set of guidelines were to focus on cooperation, collaboration and coordination among stakeholders enabling easy information sharing. Our second technical assistance to Tanzania involved the weeklong training of public prosecutors from across the country in asset recovery, asset tracing, freezing, confiscation and repatriation.

Our collective technical assistance to Tanzania was designed address was designed to adress IO7 and IO1.

You can read in more detail about our collaborations in Tanzania elsewhere in this newsletter

In May, in collaboration with the Zambia Financial Intelligence Centre, we organized a regional training workshop on asset recovery for prosecutors in Lusaka. This was the first time, we also invited judicial officers from across the continent to also take part in this training.

This was a deliberate and important choice, with the goal of bringing both sides of the judicial process together in one room, to discuss gaps in prosecuting terrorism related cases and the hurdles in the judicial system to asset recovery and confiscation. We hoped to foster understanding between the two groups and more important, to build rapport and networking among prosecutors and judicial officers from across the continent, thus promoting cross border and regional cooperation.

Finally, just before the summer break, we started planning for and designing a series of 'special technical support' which the project will be undertaking in several countries which are either already listed or are at greater risk of being listed on the grey list. In our next quarter, we will be working closely with Kenya, Mozambique, South Sudan and Madagascar to strengthen their AML-CFT frameworks and build their institutions' capacity in AML-CFT and disrupting illicit financial flows generated by transnational organized crimes. We have more on this special assistance on page 7.

We hope you enjoy the read. We thank every one of you for partnering with us and for the support that we receive from you, either individually or corporately. You encourage us to keep going!





**Until recently, Kenyan law addressing proliferation financing was piecemeal and fragmented**



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## **Legal Measures to Tackle Proliferation Financing under Kenya's Proposed Amendment of AML - CFT Laws**

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**By Michael Sang**  
*(Senior Assistant Director of Public Prosecutions & Head of Counter-Terrorism and Transnational Organized Crime(S) Division at ODPP Kenya)*

Kenya grapples with money laundering and terrorism in its virtual and physical operation environments. It is imperative to underscore that these challenges do not affect Kenya alone but reflect the current status quo in most jurisdictions worldwide.

The existing lacuna within the law, combined with rapid technological advances, open doors to criminals to exploit the financial systems in Kenya and beyond. Recognizing these and other emerging challenges, the Kenyan Government, collaborating with relevant stakeholders, has proposed the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2023.

This proposed legislation significantly strengthens Kenya's legal apparatus against money laundering and terrorism financing. This proposed law also aims at giving effect to the international standards set by the Financial Action Task Force (FATF). The FATF is a global money laundering and terrorism-financing watchdog whose spirit is entrenched within the proposed Bill. An inter-governmental body, the FATF lays down international standards to prevent these illegal activities and their negative consequences. As a policy-formulation entity, the FATF works towards generating the necessary political will to bring about national legislative and

regulatory reforms in these areas. For instance, the Kenyan Bill seeks to amend the Companies Act 2015 to provide for the requirement to deliver a statement of particulars of beneficial owners to the Registrar under the Act; furthermore, there is a provision for a requirement for companies to keep a register of beneficial owners, and to align various provisions under the Act with the FATF standards.

The proposed Bill also incorporates several significant amendments to address the financial components of the challenges posed by criminal networks. This Bill is not just another mechanism meant to check the legal adjustment box; it's a comprehensive reform tool that signifies Kenya's commitment to tackling the deep-rooted problem of financial crimes.

The proposed Bill has a particular emphasis on proliferation financing. The element of proliferation entails transactions and transfers aimed at assisting the development and/or acquisition of nuclear, chemical, or biological weapons, which are all likely to pose a significant threat to national and international security. Notably, proliferation financing applies in the Kenyan context, especially in relation to its porous borders, which can inadvertently facilitate such transactions, which makes tackling this issue paramount.

Until recently, Kenyan law addressing proliferation financing was piecemeal and fragmented, resulting in inefficiencies in the criminal justice system. The Bill intends to close these loopholes and integrate existing legislation, such as the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) and the Prevention of Terrorism Act (POTA), by proposing substantial modifications. For instance, the Bill seeks to amend extradition measures by simplifying them and expressly entrenching the offense of terrorism financing as an extraditable offense.

Once the Bill is passed by Parliament and given assent, it will be central to the implementation of Kenya's regional collaborations on the topic of discourse given that it is also a member of the Eastern and Southern Africa Money Laundering Group (ESAAMLG). This organization is made up of 19-member countries that subscribe to global standards to combat money laundering, financing of terrorism and proliferation, intending to apply anti-money laundering measures to all serious crimes.

This proposed legislation effectively consolidates the legal position on matters such as combating money laundering and financing terrorism and proliferation, minimizing administrative burdens, and improving consistency in application and interpretation. Prior to this Bill, each of the existing legislation had its thresholds and elements for the conviction of criminals on such matters. Ideally, these legal reforms encompassed under the Bill will likely influence financial institutions' day-to-day operations. The detection, reporting, and eventually prevention of cases of money laundering, terrorism funding, and proliferation financing requires banks, insurance companies, and other financial firms to implement tight internal controls and reporting processes. While implementing these necessary improvements would require resources and time, they will considerably improve Kenya's financial landscape's transparency and integrity. This Bill is an effective tool for criminal justice authorities. It offers the legal foundation for investigating, prosecuting, and adjudicating financial crimes. It will improve inter-agency collaboration and information sharing,

opening the path for more successful prosecutions and deterrent punishment. Furthermore, the Bill is important in aligning Kenyan legislation with international norms, especially UN Security Council Resolution 1540. The Bill also aligns with the existing local policy documents, such as the Inter-Agency Guidelines on cooperation and collaboration in the investigation and prosecution of terrorism and terrorism financing. It highlights the Kenyan Government's commitment to establishing a robust, efficient, unified judicial system to combat financial crime.

Undeniably, the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2023, is an essential and progressive step in the correct approach. The Bill represents the Kenyan Government's unwavering stance against money laundering, terrorism financing, and proliferation financing at the helm of contemporary times. The Bill establishes the groundwork for a safer, more secure, and financially sound Kenya by modernizing the legislative landscape and aligning it with international norms.



(courtesy of stock photography)



Group photo of participants at a 3-day training organized by AML-CFT ESCAY Project, in collaboration with Kenya Judiciary Academy and the US DOJ for judicial officers. This workshop was attended by 48 judicial officials, who preside over terrorism and terrorism financing cases.



While in Tanzania for a training workshop on financial investigations for prosecutors and investigators, the AML-CFT ESCAY team held a fruitful meeting with Honourable Justice Dr Paul Kihwelo, Judge of the Court of Appeal in Tanzania.

The meeting discussed existing partnerships that the project has with different Tanzanian institutions and possible future collaboration with the Institute of Judicial Administration, of which the Honourable Justice is the Director.



Mr. Claudio Bacigalupi, the Head of Cooperation at the European Union's Delegation to Zambia at the opening ceremony of a 2 week training workshop on Asset Recovery and Confiscation for representatives of the 34 beneficiary countries where the AML-CFT ESCAY Project has a presence.



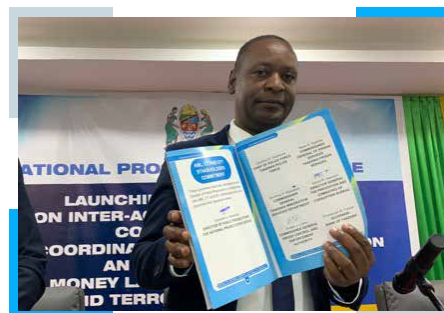
Ms Liya Tembo, the Director General of Zambia's Financial Intelligence Centre at the opening ceremony of a 2 week training workshop on Asset Recovery and Confiscation for representatives of the 34 beneficiary countries covered by the AML-CFT ESCAY Project has a presence.



Our virtual regional webinar on money laundering and terrorist financing risks and obligations of Designated Non-Financial Businesses and Professions (DNFBP), which includes casinos, real estate agents, dealers in precious metals and precious stones, lawyers, notaries, company service providers among others



The deputy head of the EU Delegation to Kenya, Ms Katrin Hagemann, addressing the opening ceremony of EU/US colloquium on pre-trial issues in Nairobi, praising the partnership between the EU and the US in peace and security issues in Africa. This meeting was jointly organised in collaboration with US Department of Justice, the UNODC and the EU through our AML-CFT ESCAY Project.



The Director of Public Prosecutions in Tanzania, Sylvester Mwakitalu, displays a signed copy of the just published Inter-Agency Guidelines handbook, during the handbook's launch ceremony in Dodoma, Tanzania. The launch was the culmination of months of deliberations and consultations between the different agencies and stakeholders in Tanzania, who are in one way or the other, involved in investigations or prosecutions of money laundering and terrorism cases.

## AML-CFT ESCAY Project partners with Tanzania to build capacity in prosecution and investigation of financial and terrorism crimes.



AML-CFT ESCAY Team of Frederic Bayard and Alma Wanyama held a meeting with the Honourable Minister Dr. Damas Ndumbaro, the Tanzanian minister for justice and constitutional affairs. Our team thanked the minister and congratulated him on the newly launched Guidelines Handbook- a comprehensive counter-terrorism guidelines book. The Project provided technical support in the development of the Guidelines handbook.

In October 2022, Tanzania was placed on the FATF's grey list. For many of the sub-Saharan countries placed on the list, the principal reasons for being listed include challenges with assessing Money Laundering and or Terrorist Financing risks, applying a risk-based approach and a weak capacity to investigate and prosecute financial crime. Placing a country on the grey list has adverse economic and social implications, including limited access to international finance and foreign direct investment.

According to the FATF, 'When the FATF places a jurisdiction under increased monitoring, it means the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring...'

Soon after being placed on the grey-list, Tanzania resolved to address the country's strategic deficiencies to counter money laundering, terrorist financing, and proliferation financing.

Among other initiatives that the country adopted, Tanzania approached the AML-CFT ESCAY Project for technical assistance; to build her capacity, especially in prosecution and investigations of financial crime and money laundering related offences.

The Project obliged and designed its assistance to Tanzania in a 2-prong approach:

### Development of a Guidelines Handbook on Investigations and prosecution of terrorism cases



AML-CFT ESCAY Project Team leader Frederic Bayard and Key Expert Alma Wanyama, present the handbook of Guidelines on Prosecutions and Investigation of Money laundering and Terrorism cases to the Director of Public Prosecutions, Mr Sylvester Mwakitalu.

The AML-CF ESCAY project developed a set of guidelines in collaboration with with the National Prosecution Service and the direct involvement of the Director of Public Prosecutions, Mr Sylvester Mwakitalu. The need to develop the Guidelines on Inter-agency Cooperation, Collaboration and Coordination in the Investigation and Prosecution of Money Laundering, Terrorism and Terrorism Financing, came from the fact that financial crimes are by nature transnational and organized, posing complexity in fighting them and calls for different agencies to work together. The challenge, in Tanzania as well as around the globe, is that every institution has its own and distinct approach in the fight against Money Laundering (ML), Terrorism (T) and Terrorism Financing (TF) crimes. Therefore, institutions are best placed to fight these crimes through multi-agency cooperation, collaboration and coordination.

This effort was meant to bring all stakeholders together, bridge gaps created by multiple legal instruments, improve coordination among institutions, harmonize mandates and organizational cultures and structures and to strengthen effective communication and information sharing among stakeholders.

National organisations which participated in this effort included the National Prosecution Services, Police Force, National Counter Terrorism Centre, Financial Intelligence Unit, Regulatory Authorities, Prevention and Combating of Corruption Bureau, Business Registration and Licensing Agency, Tanzania Revenue Authority, Registrar of Societies, Registrar of Non-Governmental Organizations, Tanzania Immigration Services Department, Tanzania Prisons Services, Capital Market and Securities Authority, Bank of Tanzania, Drugs Control and Enforcement Authority and National Council of Non-Governmental Organizations

In his speech during the Guidelines' launch ceremony in Dodoma, Hon Damas Ndumbaro praised the joint effort between the Project and Tanzanian authorities, which worked together to draft the document in just 5 months. He hoped that this would improve the country's collective conduct in dealing with money laundering, terrorism and terrorism financing cases. At the same time, he hoped that other countries in the region would follow suit in developing their own set of guidelines which would ultimately improve the region's ability to tackle these crimes effectively and efficiently.

### National Training for Prosecutors and Investigators



Group photo of participants and hosts of the training workshop for Tanzania's investigators and prosecutors.

This 5-day workshop for prosecutors and investigators was the second coordinated effort that the Project designed for Tanzanian officials to address deficiencies identified during the FATF evaluation. In collaboration with the Prevention and Combating of Corruption Bureau (PCCB) and the GIZ's East Africa Bureau. The workshop was designed to train and raise the participants' awareness on the latest emerging threats and typologies relating to money laundering, economic crimes and terrorist financing and international best practice being deployed to counter these.

The participants were also trained on how to conduct financial investigations and asset recovery as a tool of combating Money Laundering and Terrorist Financing, and to show them how this tool would assist the investigators to "follow the money" in every corruption and money laundering investigation that has asset recovery potential.

This program specifically addressed the deficiencies identified in the country's Mutual Evaluation Report of June 2021 conducted by ESAAMLG, especially the knowledge gap in investigating and prosecuting money laundering offences.

A total of 40 investigators and prosecutors were trained. Some of those selected for training were officers who deal with asset recovery, who request for and provide international cooperation in transnational crime cases, in particular relating to asset tracing, freezing, confiscation and repatriation.

## Special Technical Assistance (TA) Provided by the AML/CFT ESCAY Project

The AML - CFT ESCAY Project continues to receive requests for technical assistance from beneficiary countries. When responding to these requests, priority is given to jurisdictions that are currently under FATF/ICRG review or that are on the verge of falling to the review process. The TA aims to support these countries to comply

with FATF standards and thereby exit the review process or avoid being grey listed.

Below is a list of 5 countries in which the project will offer TA, coordinated by the project's management and senior advisors between September and December 2023.

### Democratic Republic of the Congo (DRC)



The DRC has been grey listed for its AML/CFT deficiencies in relation to FATF standards. The DRC, in collaboration with its partners, has established a working group to coordinate technical support in all the Immediate Outcomes that the country scored low in its mutual evaluation report.

#### Assistance Requested:

The coordinating committee has requested the AML/CFT ESCAY Project to support the reinforcement of DRC stakeholders' capacity in the areas of Immediate Outcome 7, 8 and 9. Requests include designing training modules and organizing series of trainings that improve technical capacities of the different institutions mandated with investigation, prosecution and conviction of ML/TF offences as well as asset recovery and confiscation.

#### How we are helping:

The AML/CFT ESCAY Project carried out a scoping mission in the country and is continuously engaged in the process of coordinating support. The Project has mobilized Francophone trainers and identified stakeholders including the FIU, judiciary police, public prosecution, asset recovery, the judiciary and other relevant agencies. The Project has designed the required courses supported by practical exercises.

### Kenya



Following the adoption of ESAAMLG's mutual evaluation report in September 2022, Kenya has entered the Financial Action Task Force's (FATF's) International Cooperation Review Group (ICRG)'s observation period, with potential to be grey-listed. In accordance with FATF requirements, Kenya must address the gaps identified.

#### Assistance requested:

Following the ICRG review, the EU suggested some technical assistance. This support will be centred around the submission of Kenya's report to the ICRG and other actions which are needed to bridge the gaps identified in the mutual evaluation.

#### How we are helping:

The project will contribute to EU support, coordinated by EUD Kenya. This will take the form of training sessions for relevant players within Kenya's criminal justice sectors, as well as support in preparing Kenya's report to the ICRG.

### Madagascar



Madagascar's Mutual Evaluation Report revealed that its AML/CFT regime has multiple deficiencies in its AML/CFT regime and sooner or later, may fall to the FATF/ICRG review for its deficiencies. Madagascar faces significant Money Laundering risks related to underlying offenses such as corruption, tax and customs offenses. Moreover, the biodiversity and geographical characteristics of the island are elements that generate natural resources and drug trafficking.

**Assistance Requested:**

Following the official request for TA assistance by the FIU Madagascar, the AML/CFT ESCAY Project has carried out a scoping mission to identify priority areas of engagement based on the needs of the country. Malagasy authorities prioritized capacity building trainings and mentoring focusing on Immediate Outcome 3 (effective supervision and monitoring) and Immediate Outcome 5 (beneficial ownership transparency) to a lesser extent and on Immediate Outcomes 6, 7, and 9 (effective use of intelligence and investigation and prosecution of ML/TF). The TA aimed to build the capacity of Malagasy stakeholders to enhance effective AML/CFT supervision and monitoring, strengthen AML/CFT investigation and prosecution and reinforce synergy among competent stakeholders, ensuring that money laundering offences and activities are successfully investigated and offenders are prosecuted and subjected to effective, proportionate and dissuasive sanctions.

**How we are helping:**

The TA involves both training and hands on practical mentoring in two key areas: Strengthening Madagascar's AML/CFT supervision/ mentoring and beneficial ownership transparency. The second area covers both training and mentoring on effective use of financial intelligence, and AML/CFT investigation and prosecution and asset recovery. The TA will commence in September 2023.

**Mozambique**

Mozambique is Under the FATF Grey list for strategic deficiencies in the country's measures to counter money laundering, terrorist financing, and proliferation financing. In its effort to implement the FATF action plan, Mozambique, in collaboration with its international partners, has established a Technical Assistance Coordination Committee (TACC) to coordinate all support, to which the AML-CFT ESCAY project is a member.

**Assistance Requested:**

Our support to Mozambique has been ongoing. Through the TACC, the AML-CFT ESCAY Project was requested to focus on improving AML/CFT/CPF supervision, monitoring and regulation (Immediate Outcome 3) in the Real Estate Sector which is identified as a high risk.

**How we are helping:**

The AML/CFT ESCAY Project has worked closely with other partners, particularly the World Bank, in coordination with the FIU Mozambique. Following a scoping mission in November 2022, the Project identified priority areas under the real estate sector for risk assessment and provision of awareness raising workshops. The Project developed a national sectoral risk assessment report and working guidelines which have been validated by the authorities. The Project also organised awareness raising workshops to the real estate sector industry, supervisory/regulatory bodies and other stakeholders.

**South Sudan**

Since June 2022, the Republic of South Sudan is under FATF/ICRG review for strategic deficiencies identified by ESAAMLG. Recently, South Sudan has been engaged with its international partners to revitalize and operationalize its Financial Intelligence Unit (FIU) including assigning new management, recruiting financial analysts and compliance officers, revising its legislation and establishing a national technical committee. However, South Sudan needs significant support to operationalize its AML/CFT regime.

**Assistance Requested:**

With a newly established Financial Intelligence Unit, South Sudan requested the Project for support in setting up the unit, building the knowledge and capacity of the newly appointed officials on how to run a financial intelligence unit, practical training on financial analysis /investigations and provision of analytical tools including computers and printers.

**How we are helping:**

Our support to South Sudan will be coordinated jointly with Kenya's Financial Reporting Centre (FRC), to provide peer to peer mentoring and knowledge sharing. The project will provide technical and financial support to facilitate a weeklong technical training for financial analysts and a peer-to-peer mentoring exercise supported by a benchmarking visit to Kenya's FRC for the newly appointed officials.



EVENT	VENUE	DATE
<b>SEPTEMBER</b>		
Regional Workshop on Financial investigation curriculum and development of the 0 draft	Mombasa, Kenya	11-15 September
Madagascar Mentoring mission on Immediate Outcome 3 (IO3)	Antananarivo, Madagascar	18 – 22 September
National Training on Financial Investigation of Trafficking in Persons (TIP) - in Collaboration with EU Better Migration Management Project and UNODC	Nairobi, Kenya	26 – 28 September
<b>OCTOBER</b>		
Tanzania Drafting a curriculum on financial investigations and consultations by respective designated national experts	Online, Tanzania	1 -31 October
Zambia Drafting a curriculum on financial investigations and consultations by respective designated national experts	Online, Zambia	1 -31 October
Malawi Drafting a curriculum on financial investigations and consultations by respective designated national experts	Online, Malawi	1 -31 October
Head of Africa's Chief Justices meeting - in Collaboration with KJA, USDOJ, IDLO, GIZ	Mombasa, Kenya	3 – 5 October
Heads of FIUs Meeting	Harare, Zimbabwe	9 – 10 October
Workshop on inter-agency cooperation - in Collaboration with ESAAMLG, ECOFEL, GIZ	Seychelles	16 – 18 October
Journée internationale de prévention sur le blanchiment d'argent	Antananarivo, Madagascar	23 – 25 October
<b>NOVEMBER</b>		
Workshop on financial investigation curriculum and fine tuning of the working draft	Mombasa, Kenya	13 – 17 November
Regional workshop on promoting AML/CFT and counter IFFs to the Private sector, media, CSOs and governmental agencies (34 countries together)	Online	27 November – 1 December
<b>DECEMBER</b>		
Validation workshop for all the 4 countries that developed a curriculum	Mombasa, Kenya	5 – 7 December



# AML-CFT ESCAY

Eastern, Southern, Central Africa and Yemen

**NEWSLETTER** ISSUE 2

## Targeting Transnational Organised Crime and Terrorist Groups' Illicit Financial Flows in Eastern, Southern, Central Africa & Yemen



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